

109TH CONGRESS
2D SESSION

H. R. 4889

To grant the power to the President to reduce budget authority.

IN THE HOUSE OF REPRESENTATIVES

MARCH 7, 2006

Mr. GINGREY introduced the following bill; which was referred to the Committee on the Budget, and in addition to the Committees on Rules and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To grant the power to the President to reduce budget authority.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Separate Enrollment
5 and Line Item Veto Act of 2006”.

6 **SEC. 2. STRUCTURE OF LEGISLATION.**

7 (a) APPROPRIATIONS LEGISLATION.—

8 (1) The Committee on Appropriations of either
9 the House or the Senate shall not report an appro-

1 priation measure that fails to contain such level of
2 detail on the allocation of an item of appropriation
3 proposed by that House as is set forth in the com-
4 mittee report accompanying such bill.

5 (2) If an appropriation measure is reported to
6 the House or Senate that fails to contain the level
7 of detail on the allocation of an item of appropria-
8 tion as required in paragraph (1), it shall not be in
9 order in that House to consider such measure. If a
10 point of order under this paragraph is sustained, the
11 measure shall be recommitted to the Committee on
12 Appropriations of that House.

13 (b) AUTHORIZATION LEGISLATION.—

14 (1) A committee of either the House or the
15 Senate shall not report an authorization measure
16 that contains new direct spending or new limited tax
17 benefits unless such measure presents each new di-
18 rect spending or new limited tax benefit as a sepa-
19 rate item and the accompanying committee report
20 for that measure shall contain such level of detail as
21 is necessary to clearly identify the allocation of new
22 direct spending or new limited tax benefits.

23 (2) If an authorization measure is reported to
24 the House or Senate that fails to comply with para-
25 graph (1), it shall not be in order in that House to

1 consider such measure. If a point of order under this
2 paragraph is sustained, the measure shall be recom-
3 mitted to the committee of jurisdiction of that
4 House.

5 (c) CONFERENCE REPORTS.—

6 (1) A committee of conference to which is com-
7 mitted an appropriations measure shall not file a
8 conference report in either House that fails to con-
9 tain the level of detail on the allocation of an item
10 of appropriation as is set forth in the statement of
11 managers accompanying that report.

12 (2) A committee of conference to which is com-
13 mitted an authorization measure shall not file a con-
14 ference report in either House unless such measure
15 presents each direct spending or limited tax benefit
16 as a separate item and the statement of managers
17 accompanying that report clearly identifies each
18 such item.

19 (3) If a conference report is presented to the
20 House or Senate that fails to comply with either
21 paragraph (1) or (2), it shall not be in order in that
22 House to consider such conference report. If a point
23 of order under this paragraph is sustained in the
24 House to first consider the conference report, the

1 measure shall be deemed recommitted to the com-
2 mittee of conference.

3 **SEC. 3. WAIVERS AND APPEALS.**

4 Any provision of section 2 may be waived or sus-
5 pended in the House or Senate only by an affirmative vote
6 of three-fifths of the Members of that House duly chosen
7 and sworn. An affirmative vote of three-fifths of the Mem-
8 bers duly chosen and sworn shall be required to sustain
9 an appeal of the ruling of the Chair on a point of order
10 raised under that section.

11 **SEC. 4. SEPARATE ENROLLMENT.**

12 (a)(1) Notwithstanding any other provision of law,
13 when any appropriation or authorization measure first
14 passes both Houses of Congress in the same form, the
15 Clerk of the House of Representatives (in the case of a
16 measure originating in the House of Representatives), or
17 the Secretary of the Senate (in the case of a measure origi-
18 nating in the Senate) shall disaggregate the items as ref-
19 erenced in section 5(4) and assign each item a new bill
20 number. Henceforth each item shall be treated as a sepa-
21 rate bill to be considered under the following subsections.
22 The remainder of the bill not so disaggregated shall con-
23 stitute a separate bill and shall be considered with the
24 other disaggregated bills pursuant to subsection (b).

1 (2) A bill that is required to be disaggregated into
2 separate bills pursuant to subsection (a)—

3 (A) shall be disaggregated without substantive
4 revision, and

5 (B) shall bear the designation of the measure of
6 which it was an item prior to such disaggregation,
7 together with such other designation as may be nec-
8 essary to distinguish such measure from other meas-
9 ures disaggregated pursuant to paragraph (1) with
10 respect to the same measure.

11 (b) The new bills resulting from the disaggregation
12 described in paragraph (1) of subsection (a) shall be im-
13 mediately placed on the appropriate calendar in the House
14 of origination, and upon passage, placed on the appro-
15 priate calendar in the other House. They shall be the next
16 order of business in each House and they shall be consid-
17 ered and voted on en bloc and shall not be subject to
18 amendment. A motion to proceed to the bills shall be non-
19 debatable. Debate in the House of Representatives or the
20 Senate on the bills shall be limited to not more than 1
21 hour, which shall be divided equally between the majority
22 leader and the minority leader. A motion further to limit
23 debate is not debatable. A motion to recommit the bills
24 is not in order, and it is not in order to move to reconsider
25 the vote by which the bills are agreed to or disagreed to.

1 **SEC. 5. DEFINITIONS.**

2 For purposes of this Act:

3 (1) The term “appropriation measure” means
4 any general or special appropriation bill or any bill
5 or joint resolution making supplemental, deficiency,
6 or continuing appropriations.

7 (2) The term “authorization measure” means
8 any measure other than an appropriations measure
9 that contains a provision providing direct spending
10 or targeted tax benefits.

11 (3) The term “direct spending” shall have the
12 same meaning given to such term in section
13 250(c)(8) of the Balanced Budget and Emergency
14 Deficit Control Act of 1985.

15 (4) The term “item” means—

16 (A) with respect to an appropriations
17 measure—

18 (i) any numbered section,

19 (ii) any unnumbered paragraph, or

20 (iii) any allocation or suballocation of
21 an appropriation, made in compliance with
22 section 2(a), contained in a numbered sec-
23 tion or an unnumbered paragraph but
24 shall not include a provision which does
25 not appropriate funds, direct the President
26 to expend funds for any specific project, or

1 create an express or implied obligation to
2 expend funds and—

3 (I) rescinds or cancels existing
4 budget authority;

5 (II) only limits, conditions, or
6 otherwise restricts the President's au-
7 thority to spend otherwise appro-
8 priated funds; or

9 (III) conditions on an item of ap-
10 propriation not involving a positive al-
11 location of funds by explicitly prohib-
12 iting the use of any funds; and

13 (B) with respect to an authorization meas-
14 ure—

15 (i) any numbered section, or

16 (ii) any unnumbered paragraph,

17 that contains new direct spending or a new tar-
18 geted tax benefit presented and identified in
19 conformance with section 2(b).

20 (5) The term “limited tax benefit”—

21 (A) The term “limited tax benefit”
22 means—

23 (i) any revenue-losing provision which
24 provides a Federal tax deduction, credit,
25 exclusion, or preference to 100 or fewer

1 beneficiaries under the Internal Revenue
2 Code of 1986 in any fiscal year for which
3 the provision is in effect; and

4 (ii) any Federal tax provision which
5 provides temporary or permanent transi-
6 tional relief for 10 or fewer beneficiaries in
7 any fiscal year from a change to the Inter-
8 nal Revenue Code of 1986.

9 (B) A provision shall not be treated as de-
10 scribed in subparagraph (A)(i) if the effect of
11 that provision is that—

12 (i) all persons in the same industry or
13 engaged in the same type of activity re-
14 ceive the same treatment;

15 (ii) all persons owning the same type
16 of property, or issuing the same type of in-
17 vestment, receive the same treatment; or

18 (iii) any difference in the treatment of
19 persons is based solely on—

20 (I) in the case of businesses and
21 associations, the size or form of the
22 business or association involved;

23 (II) in the case of individuals,
24 general demographic conditions, such
25 as income, marital status, number of

1 dependents, or tax return filing sta-
2 tus;

3 (III) the amount involved; or

4 (IV) a generally-available election
5 under the Internal Revenue Code of
6 1986.

7 (C) A provision shall not be treated as de-
8 scribed in subparagraph (A)(ii) if—

9 (i) it provides for the retention of
10 prior law with respect to all binding con-
11 tracts or other legally enforceable obliga-
12 tions in existence on a date contempora-
13 neous with congressional action specifying
14 such date; or

15 (ii) it is a technical correction to pre-
16 viously enacted legislation that is estimated
17 to have no revenue effect.

18 (D) For purposes of subparagraph (A)—

19 (i) all businesses and associations
20 which are related within the meaning of
21 sections 707(b) and 1563(a) of the Inter-
22 nal Revenue Code of 1986 shall be treated
23 as a single beneficiary;

24 (ii) all qualified plans of an employer
25 shall be treated as a single beneficiary;

1 (iii) all holders of the same bond issue
2 shall be treated as a single beneficiary; and

3 (iv) if a corporation, partnership, as-
4 sociation, trust or estate is the beneficiary
5 of a provision, the shareholders of the cor-
6 poration, the partners of the partnership,
7 the members of the association, or the
8 beneficiaries of the trust or estate shall not
9 also be treated as beneficiaries of such pro-
10 vision.

11 (E) For purposes of this paragraph, the
12 term “revenue-losing provision” means any pro-
13 vision which results in a reduction in Federal
14 tax revenues for any one of the two following
15 periods—

16 (i) the first fiscal year for which the
17 provision is effective; or

18 (ii) the period of the 5 fiscal years be-
19 ginning with the first fiscal year for which
20 the provision is effective.

21 (F) The terms used in this paragraph shall
22 have the same meaning as those terms have
23 generally in the Internal Revenue Code of 1986,
24 unless otherwise expressly provided.

1 **SEC. 6. IDENTIFICATION OF LIMITED TAX BENEFITS.**

2 (a) STATEMENT BY JOINT TAX COMMITTEE.—The
3 Joint Committee on Taxation shall review any revenue or
4 reconciliation bill or joint resolution which includes any
5 amendment to the Internal Revenue Code of 1986 that
6 is being prepared for filing by a committee of conference
7 of the two Houses, and shall identify whether such bill
8 or joint resolution contains any limited tax benefits. The
9 Joint Committee on Taxation shall provide to the com-
10 mittee of conference a statement identifying any such lim-
11 ited tax benefits or declaring that the bill or joint resolu-
12 tion does not contain any limited tax benefits. Any such
13 statement shall be made available to any Member of Con-
14 gress by the Joint Committee on Taxation immediately
15 upon request.

16 (b) STATEMENT INCLUDED IN LEGISLATION.—(1)
17 Notwithstanding any other rule of the House of Rep-
18 resentatives or any rule or precedent of the Senate, any
19 revenue or reconciliation bill or joint resolution which in-
20 cludes any amendment to the Internal Revenue Code of
21 1986 reported by a committee of conference of the two
22 Houses may include, as a separate section of such bill or
23 joint resolution, the information contained in the state-
24 ment of the Joint Committee on Taxation, but only in the
25 manner set forth in paragraph (2).

1 (2) The separate section permitted under paragraph
2 (1) shall read as follows: “Section 1021(a)(3) of the Con-
3 gressional Budget and Impoundment Control Act of 1974
4 shall _____ apply to _____.”, with the blank spaces
5 being filled in with—

6 (A) in any case in which the Joint Committee
7 on Taxation identifies limited tax benefits in the
8 statement required under subsection (a), the word
9 “only” in the first blank space and a list of all of
10 the specific provisions of the bill or joint resolution
11 identified by the Joint Committee on Taxation in
12 such statement in the second blank space; or

13 (B) in any case in which the Joint Committee
14 on Taxation declares that there are no limited tax
15 benefits in the statement required under subsection
16 (a), the word “not” in the first blank space and the
17 phrase “any provision of this Act” in the second
18 blank space.

19 (c) PRESIDENT’S AUTHORITY.—If any revenue or
20 reconciliation bill or joint resolution is signed into law pur-
21 suant to Article I, section 7, of the Constitution of the
22 United States—

23 (1) with a separate section described in sub-
24 section (b)(2), then the President may use the au-
25 thority granted in section 1021(a)(3) only to cancel

1 any limited tax benefit in that law, if any, identified
2 in such separate section; or

3 (2) without a separate section described in sub-
4 section (b)(2), then the President may use the au-
5 thority granted in section 1021(a)(3) to cancel any
6 limited tax benefit in that law that meets the defini-
7 tion in section 1026.

8 (d) CONGRESSIONAL IDENTIFICATIONS OF LIMITED
9 TAX BENEFITS.—There shall be no judicial review of the
10 congressional identification under subsections (a) and (b)
11 of a limited tax benefit in a conference report.

12 **SEC. 7. JUDICIAL REVIEW.**

13 (a) EXPEDITED REVIEW.—

14 (1) Any Member of Congress may bring an ac-
15 tion, in the United States District Court for the Dis-
16 trict of Columbia, for declaratory judgment and in-
17 junctive relief on the ground that a provision of this
18 Act violates the Constitution.

19 (2) A copy of any complaint in an action
20 brought under paragraph (1) shall be promptly de-
21 livered to the Secretary of the Senate and the Clerk
22 of the House of Representatives, and each House of
23 Congress shall have the right to intervene in such
24 action.

1 (3) Any action brought under paragraph (1)
2 shall be heard and determined by a three-judge
3 court in accordance with section 2284 of title 28,
4 United States Code.

5 Nothing in this section or in any other law shall infringe
6 upon the right of the House of Representatives or the Sen-
7 ate to intervene in an action brought under paragraph (1)
8 without the necessity of adopting a resolution to authorize
9 such intervention.

10 (b) APPEAL TO SUPREME COURT.—Notwithstanding
11 any other provisions of law, any order of the United States
12 District Court for the District of Columbia which is issued
13 pursuant to an action brought under paragraph (1) of sub-
14 section (a) shall be reviewable by appeal directly to the
15 Supreme Court of the United States. Any such appeal
16 shall be taken by a notice of appeal filed within 10 days
17 after such order is entered; and the jurisdictional state-
18 ment shall be filed within 30 days after such order is en-
19 tered. No stay of an order issued pursuant to an action
20 brought under paragraph (1) of subsection (a) shall be
21 issued by a single Justice of the Supreme Court.

22 (c) EXPEDITED CONSIDERATION.—It shall be the
23 duty of the District Court for the District of Columbia
24 and the Supreme Court of the United States to advance
25 on the docket and to expedite to the greatest possible ex-

1 tent the disposition of any matter brought under sub-
2 section (a).

3 (d) SEVERABILITY.—If any provision of this Act, or
4 the application of such provision to any person or cir-
5 cumstance is held unconstitutional, the remainder of this
6 Act and the application of the provisions of such Act to
7 any person or circumstance shall not be affected thereby.

8 **SEC. 8. TREATMENT OF EMERGENCY SPENDING.**

9 (a) NEW POINT OF ORDER.—Title IV of the Con-
10 gressional Budget Act of 1974 is amended by adding at
11 the end the following new section:

12 “POINT OF ORDER REGARDING EMERGENCIES

13 “SEC. 408. It shall not be in order in the House of
14 Representatives or the Senate to consider any bill or joint
15 resolution, or amendment thereto or conference report
16 thereon, containing an emergency designation if it also
17 provides an appropriation or direct spending for any other
18 item or contains any other matter, but that bill or joint
19 resolution, amendment, or conference report may contain
20 rescissions of budget authority or reductions of direct
21 spending, or that amendment may reduce amounts for
22 that emergency.”.

23 (b) CONFORMING AMENDMENT.—The table of con-
24 tents set forth in section 1(b) of the Congressional Budget
25 and Impoundment Control Act of 1974 is amended by in-

1 serting after the item relating to section 407 the following
 2 new item:

“Sec. 408. Point of order regarding emergencies.”.

3 **SEC. 9. EVALUATION AND SUNSET OF TAX EXPENDITURES.**

4 (a) **LEGISLATION FOR SUNSETTING TAX EXPENDI-**
 5 **TURES.**—The President shall submit legislation for the
 6 periodic review, reauthorization, and sunset of tax expend-
 7 itures with his fiscal year 2008 budget.

8 (b) **BUDGET CONTENTS AND SUBMISSION TO CON-**
 9 **GRESS.**—Section 1105(a) of title 31, United States Code,
 10 is amended by adding at the end the following paragraph:

11 “(35) beginning with fiscal year 2009, a Gov-
 12 ernment performance plan for measuring the overall
 13 effectiveness of tax expenditures, including a sched-
 14 ule for periodically assessing the effects of specific
 15 tax expenditures in achieving performance goals.”.

16 (c) **PILOT PROJECTS.**—Section 1118(c) of title 31,
 17 United States Code, is amended by—

18 (1) striking “and” after the semicolon in para-
 19 graph (2);

20 (2) redesignating paragraph (3) as paragraph
 21 (4); and

22 (3) adding after paragraph (2) the following:

23 “(3) describe the framework to be utilized by
 24 the Director of the Office of Management and Budg-
 25 et, after consultation with the Secretary of the

1 Treasury, the Comptroller General of the United
2 States, and the Joint Committee on Taxation, for
3 undertaking periodic analyses of the effects of tax
4 expenditures in achieving performance goals and the
5 relationship between tax expenditures and spending
6 programs; and”.

7 (d) CONGRESSIONAL BUDGET ACT.—Title IV of the
8 Congressional Budget Act of 1974 is amended by adding
9 at the end thereof the following:

10 “TAX EXPENDITURES

11 “SEC. 409. It shall not be in order in the House of
12 Representatives or the Senate to consider any bill, joint
13 resolution, amendment, motion, or conference report that
14 contains a tax expenditure unless the bill, joint resolution,
15 amendment, motion, or conference report provides that
16 the tax expenditure will terminate not later than 10 years
17 after the date of enactment of the tax expenditure.”.

18 **SEC. 10. EFFECTIVE DATE.**

19 The provisions of this Act shall apply to measures
20 passed by the Congress beginning with the date of the en-
21 actment of this Act and ending on September 30, 2012.

